IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3477 OF 1994

Miss Ramila K Tanna, .. Petitioner

Vs

Hemang Pramod Tanna & Ors. .. Respondents

Mr D.H.Mehta i/by M/s Manilal Kher Ambalal & Co, for the petitioner.

Mr A.N.Narula, for respondent no.1.

CORAM : D.B.BHOSALE,J.

DATE : 01.12.2005

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the concurrent findings recorded by the Courts below in the proceedings arising from the application for temporary injunction. The application was finally rejected by IV Co-operative Court vide order dated 18.3.93. The order was carried in appeal by the petitioner and her appeal was also dismissed vide judgment and order dated 7.1.1994.

3. While issuing rule on the writ petition, no interim order was passed. No interim relief seeking

stay to the further proceedings in Case No.CC/IV/67 of 1993, was prayed for. I see no reason why the case before the Co-operaive Court should remain pending for last 12 years and the Co-operative Court must have decided it long back. Unfortunately, the counsel appearing for the parties have no instructions as to whether the case is still pending. In any case, there is no reason why this Court under Article 227 of the Constitution of India should interfere with the concurrent findings recorded by the Courts below. I find no merit in the petition warranting interference with the conclusions, based on the material placed before it. In the circumstances, this petition fails and is dismissed as such.

4. However, it is made clear that if the main case is still pending before the Co-operative Court, it may be decided on merits in accordance with law and uninfluenced by the observations made in the proceedings arising from the temporary injunction application.

(D.B.Bhosale,J.)